

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Airline Pilots Association International

v.

Civil No. 04-cv-331-JD

Guilford Transportation Industries, Inc.,
Pan American Airways Corp.,
and Boston-Maine Airways Corp.

O R D E R

Defendants seek a protective order limiting materials constituting trade secrets and confidential business information to those lawyer and experts in the employ of plaintiff who are involved in this litigation. Plaintiff is amenable to such an order. The point in dispute is whether these employees are to be barred from participating in any subsequent collective bargaining or other representational activity.


Plaintiff is a union. It has a collective bargaining agreement with Pan American Airways Corp. and groups within the other defendants may select ALPA as their union in the future. It is axiomatic that an employer has a duty to provide financial information to a union only when it claims an "inability to pay" for the union's bargaining proposals. NLRB v. Truitt Mfg. Co., 351 U.S. 149, 152-53 (1956). Defendants have not pled poverty in that circumstance.

Clearly, plaintiff has the right to the financial discovery sought. With thirteen lawyers and thirteen economic analysts employed constraining the two lawyers and one or two analysts by a Chinese wall and future representational activity for a reasonable period does not unduly hamper plaintiff while protecting confidential financial information.

As a consequence the motion of defendants is granted with two amendments which are to be incorporated in a newly submitted Proposed Protective Order; the limitation on representational work vis-a-vis any defendant expires on the earlier of (1) four years from the date of the order or (2) any claim of an "inability to pay" by any defendant.

The parties are ordered to amend the proposed order consistent with this order and resubmit it within ten (10) business days.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: December 14, 2005

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